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*Attorneys for Defendants
C. R. Bard, Inc. and
Bard Peripheral Vascular, Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

IN RE: Bard IVC Filters Products Liability
Litigation

No. 2:15-MD-02641-DGC

**DEFENDANTS' UNOPPOSED
MOTION FOR LEAVE TO FILE
UNDER SEAL EXHIBIT IN
SUPPORT OF PLAINTIFFS'
STATEMENT REGARDING
JOINT NOTICE EXHIBIT F**

Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively "Bard") hereby respectfully move this Court, pursuant to the Stipulated Protective Order (Doc. 269), Federal Rule of Civil Procedure 26(c)(1)(G), and Local Civil Rule 5.6 for leave to file under seal the document that Plaintiffs attach in support of their statement regarding Joint Notice Exhibit F (Track 3 Direct-Filed Cases Where the Parties Do Not Agree to the Venue Identified in the Short Form Complaints). The document attached by Plaintiffs (the

1 “Exhibit”) contains certain medical information, trade secrets, and confidential information
 2 that are protected under the Stipulated Protective Order, warranting protection from public
 3 disclosure. Specifically, it contains all of Bard’s IVC Filter sales data from 2002 through
 4 2016. Accordingly, there is good cause to grant Defendants’ Motion for Leave to File Under
 5 Seal. Plaintiffs do not oppose this Motion.

6 **ARGUMENT AND CITATION OF AUTHORITY**

7 “When a court grants a protective order for information produced during discovery,
 8 it already has determined that ‘good cause’ exists to protect this information from being
 9 disclosed to the public by balancing the needs for discovery against the need for
 10 confidentiality.” *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1213
 11 (9th Cir. 2002). *See also, Medicis Pharm. Corp. v. Acella Pharm., LLC*, CV 10-1780-PHX-
 12 JAT, 2012 WL 2260928 at *2 (D. Ariz. June 15, 2012) (sealing exhibits related to “Medicis’
 13 marketing strategy, Acella’s product formulation,...various e-mails and deposition
 14 transcripts, viscosity test data, sales and marketing information, and various other
 15 documents” because “[m]uch of this information has been previously sealed by the Court,
 16 has been designated as confidential by the parties pursuant to the protective order in this
 17 case, or could otherwise potentially harm the parties if released publicly because of its
 18 confidential and sensitive nature.”).

19 The Exhibit at issue in Bard’s Motion contains highly competitive, confidential,
 20 proprietary information that warrants protection under Federal Rule of Civil Procedure
 21 26(c)(1)(G) because the Exhibit and its underlying data are not made public by Bard and, if
 22 obtained by Bard’s competitors, could give an unfair economic advantage to those
 23 competitors. *Blanchard & Co., Inc. v. Barrick Gold Corp.*, No. 02-3721, 2004 WL 737485,
 24 at *5 (E.D. La. Apr. 5, 2004) (citing *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 786
 25 (3d Cir. 1994)). The Exhibit contains Bard’s national sales data organized by filter model,
 26 year, and state, and was produced to Plaintiffs as “Confidential – Subject to Protective
 27 Order” on each page pursuant to Stipulated Protective Order (Doc. 269) ¶ 6. Moreover, this
 28 highly sensitive sales data has no bearing whatsoever to Plaintiffs’ substantive claims, and

1 is only being submitted by Plaintiffs as part of a jurisdictional dispute. The public has no
 2 interest in this information, but Bard's competitors would find substantial value in this data
 3 and put Bard at a competitive disadvantage.

4 The public disclosure of these exhibits would reveal confidential, proprietary and
 5 trade secret information and would create a heightened risk of irreparable harm to Bard's
 6 competitive business concerns. Further, its inclusion in the public record would not only
 7 harm Bard because of the trade secrets and confidential information it contains, but it would
 8 also eviscerate the significant time and resources Bard has expended in protecting its
 9 business information.

10 Accordingly, good cause exists for sealing the Exhibit at issue.

11 RESPECTFULLY SUBMITTED this 26th day of July, 2019.

12 s/Richard B. North, Jr.
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